

BULLETIN 95-3

TO: All Health Insurance Carriers

FROM: Glenn Pomeroy, Commissioner

DATE: November 17, 1995

SUBJECT: Disclosure and Use of Provider Discounts

The purpose of this bulletin is to address the claim payment practices of all health insurance carriers that have negotiated discount prices for covered policy benefits with health care providers.

The Insurance Department administers N.D.C.C. Chapter 26.1-04, relating to prohibited practices in insurance business. N.D.C.C. § 26.1-04-03 defines an unfair and deceptive act as the making of a statement that is untrue, deceptive, or misleading. N.D.C.C. § 26.1-04-03 defines an unfair claim settlement practice as knowingly misrepresenting to claimants pertinent facts or policy provisions relating to coverages. Accordingly, misrepresenting the terms of an insurance policy or certificate is subject to an enforcement action as an unfair and deceptive trade practice, and as an unfair claim settlement practice.

The Insurance Department considers it to be an unfair and deceptive act and an unfair claim settlement practice to not calculate the coinsurance or copayment to be paid by an individual on the basis set forth in the insurance policy or certificate. It is also an unfair and deceptive act for any health carrier whose contract provides for a calculation of a covered individual's coinsurance or copayment not to disclose such method of calculation in the policy or certificate. Health carriers under the Insurance Department's jurisdiction are subject to a market conduct examination should they fail to provide such disclosure.

If a health carrier negotiates a discount with health care providers so the health carrier does not have to pay the provider billed charges, the benefit or the negotiated payment must be considered in the calculation of an insured's coinsurance or copayment. For purposes of determining a coinsurance payment or copayment amounts, the total cost of the service is the amount the health insurer has agreed to pay the provider, not the billed charges.

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Health carriers are instructed to report to the Insurance Department as to whether they are in compliance with the above method of calculation of a covered individual's coinsurance or copayment (please see attached form). If a health carrier is currently not in compliance, it is expected that they will immediately begin complying with the method of calculation in this bulletin.

All health carriers which are not or have not been in compliance with this bulletin must conduct an audit of claim payments which have not or do not adhere to the preceding requirements and shall make additional payments as appropriate for each claim. All health insurers shall submit a report to the Insurance Department within 120 days of the date of this bulletin of all affected accounts, including any payments made pursuant to the requirements of this bulletin. Failure to report may be cause for a market conduct examination.

Send the completed form by January 1, 1996, to:

Lisa M. Weinmann
Legal Counsel
North Dakota Insurance Department
600 East Boulevard Avenue
Bismarck, ND 58505

GP/njb
Enclosure

COINSURANCE/COPAYMENT CALCULATION REPORT

Name of Company

- ☐ Bulletin 95-3 is not applicable to us because we do not write health insurance in North Dakota.
- ☐ We have performed an analysis of our coinsurance/copayment calculation and report that it **IS** in compliance with Bulletin 95-3.
- ☐ We have performed an analysis of our coinsurance/copayment calculation and report that it **WAS NOT** or **IS NOT** in compliance with Bulletin 95-3. We will conduct an audit of claim payments which do not adhere to Bulletin 95-3 and make additional payments as appropriate for each claim. Furthermore, we shall submit a report to the Insurance Department of all affected accounts by March 31, 1996.

Contact Person

Telephone Number